

Applicants acknowledge with appreciation the indication that Claim 3 contains allowable subject matter. However, because Claim 1, from which Claim 3 depends, has not been amended by this amendment, Claim 3 remains in dependent form.

With regard to the rejection of Claims 1 and 8-11 under 35 U.S.C. § 102(e) as anticipated by Matsumoto, this rejection is respectfully traversed.

The present application was filed on November 7, 2001 in the United States Patent and Trademark Office. The present application is assigned to Mitsubishi Denki Kabushiki Kaisha.<sup>1</sup> Additionally, the inventors of the subject matter of the present application were under an obligation at the time of invention to assign all rights to the invention to Mitsubishi Denki Kabushiki Kaisha.

Matsumoto was filed on October 3, 2003 in the United States and issued as a U.S. patent on September 24, 2002. Therefore, Matsumoto is prior art against the present application only under 35 U.S.C. § 102(e).

However, Matsumoto is assigned on its face to Mitsubishi Denki Kabushiki Kaisha. Accordingly, as Matsumoto is only available against the present application as prior art under 35 U.S.C. § 102(e) and is commonly assigned to Mitsubishi Denki Kabushiki Kaisha, it is respectfully submitted that Matsumoto may not be applied against the pending claims.

Additionally, the body region potential setting portion of Claim 1 of the present invention is provided adjacent to the source and drain regions in a gate width direction in the element formation region.

Figures 1 and 3 of Matsumoto include a body terminal region 3d. However, the body terminal region 3d of Matsumoto is isolated from the source and drain regions 6a and 6b by the partial insulating film 5b. More specifically, the body terminal region 3d is not formed in the element formation region, but is formed outside the element formation region. In

addition, it is evident from Figures 1 and 3 of Matsumoto that the body terminal region 3d is not adjacent to the source and drain regions 6a and 6b in a gate width direction.

Consequently, it is evident that Matsumoto fails to disclose or suggest the features recited in Claim 1. Specifically, it is evident that Matsumoto does not disclose or suggest the body region potential setting portion recited in Claim 1.

Therefore, as Matsumoto may not be applied against the pending claims in the manner proposed by the outstanding Office Action and Matsumoto fails to disclose or suggest the features of Claim 1, it is respectfully requested that the rejection of Claims 1 and 8-11 be withdrawn.

Similarly, regarding the rejection of Claims 1 and 8-11 under 35 U.S.C. § 102(e) as anticipated by Kunikiyo, Kunikiyo is also assigned on its face to Mitsubishi Denki Kabushiki Kaisha. The U.S. filing date of Kunikiyo is April 12, 2000, and Kunikiyo issued as a U.S. patent on April 8, 2003. Therefore, Kunikiyo is available as prior art against the present application only under 35 U.S.C. § 102(e).

Because the present application and Kunikiyo are both assigned to Mitsubishi Denki Kabushiki Kaisha, and Kunikiyo is only available against the present application as prior art under 35 U.S.C. § 102(e), it is respectfully submitted that Kunikiyo may not be applied against the present claims as proposed by the outstanding Office Action.

Additionally, as noted above, the body region potential setting portion recited in Claim 1 is provided adjacent to the source and drain regions in a gate width direction in the element formation region.

Kunikiyo describes an impurity region 111 that is isolated from the source and drain regions 7 and 8 by the isolation insulating film 4. More specifically, the impurity region 111 is not formed in the element formation region of Kunikiyo, but it is formed outside the

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<sup>1</sup> This assignment is recorded at reel 012299, frame 0133.

element formation region. Further, it is clear from Figure 2 of Kunikiyo that the impurity region 111 is not adjacent to the source and drain regions 7 and 8 in a gate width direction. Therefore, it is respectfully submitted that Kunikiyo fails to disclose or suggest the body region potential setting portion recited in Claim 1, and it is respectfully submitted that Claim 1 patentably distinguishes over Kunikiyo.

Consequently, as Kunikiyo may not be applied against the pending claims as prior art and Kunikiyo fails to disclose or suggest the features of Claim 1, it is respectfully requested that this rejection of Claims 1 and 8-11 be withdrawn.

As for the rejection of Claim 12 under 35 U.S.C. § 103(a) as unpatentable over Kunikiyo in view of Aoki, this rejection is also traversed. As noted above, Kunikiyo may not be applied against the pending claims as prior art. Absent the application of Kunikiyo, the Office Action has failed to provide a *prima facie* case of obviousness for the rejection of Claim 12. It is therefore respectfully requested that this rejection be withdrawn.

Consequently, in view of the foregoing discussion, it is respectfully submitted that this application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

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